

A Brief Discussion of:

THE CONFIDENTIALITY DILEMMA

(For a more extensive discussion of this topic see L. Taylor & H. Adelman (1989). Reframing the confidentiality dilemma to work in children's best interests, *Professional Psychology: Research and Practice*, 20, 79-83)

We all value client confidentiality. At the same time, we are aware of the legal responsibility to report endangering and illegal acts. Such reporting requirements naturally raise concerns about the negative impact on the counseling relationship.

In reaction to what they see as an erosion of confidentiality, some interveners communicate only what the law compels. Others are so overwhelmed by reporting requirements that they turn the concept of confidentiality inside out. For example, a drug counselor recently stated:

“I explained confidentiality that if he told me anything about the possibility of hurting himself or anyone else or about taking an illegal substance I would have to tell others, including his parents and the authorities”.

Concern for reporting so dominated him that concerns about protecting privacy and establishing trust were not addressed.

Clearly, there is a dilemma. On the one hand, an intervener must avoid undermining confidentiality and privileged communication; on the other hand, s/he must give appropriate information to others who share concern and responsibility for a minor's welfare. It is tempting to resolve the dilemma by reasserting that all counseling information should be confidential and privileged. Such a position, however, ignores the fact that failure to share germane information can seriously hamper efforts to help the client.

In working with minors, concerns about the limits on confidentiality may be best approached by reframing the problem and focusing on how to facilitate *appropriate* sharing of information. From this perspective, we have come to focus less on how to avoid breaching confidences and more on how to establish the type of working relationship where young clients take the lead in sharing information when appropriate. To these ends, we stress processes to enhance client motivation and empower them to share information when it can help solve their problems. In addition, steps are taken to minimize the negative consequences of divulging confidences.

Enhancing Motivation for Sharing

Informing clients about reporting requirements can compound negative attitudes toward intervention. Thus, there may be a need for systematic efforts to enhance motivation to participate. The problem, of course, is a bit paradoxical: that is, how to elicit sufficient participation to allow the counselor to demonstrate that participation is worthwhile.

One strategy involves demonstrating to the client intrinsic payoffs for taking the risk of disclosing

personal thoughts and feelings. We start with the assumption, born of experience, that first contacts allow sufficient access to encourage attendance for a couple of sessions. That is, we know that skilled therapists use a range of nonthreatening activities to help establish enough rapport that most youngsters are willing to return at least for a second session. The following ideas for enhancing motivational readiness build on this initial rapport.

Available theory and research suggest the place to begin enhancing motivational readiness to disclose is to find any area in which the client expresses a personal interest. These include areas of strength, success, or problems, reactions to being referred, and so forth. Sometimes the area is clear. For instance, some young clients, perhaps in an effort to feel more in control of the situation, lead the intervener away from the referral problem to talk about some other matter. In such cases, initially we follow their lead. Almost inevitably, once they start talking about their lives, they share some complaint or problem. Some act surprised about being referred. In these cases, we begin by sharing in a nonjudgmental way the concerns expressed by parents or teachers and then try to mobilize clients to share their perspectives (often they are very motivated to rebut what others have said). We find many who respond best initially to the structure or a question and answer format that explores areas of personal concern (e.g., instruments such as the Children's Depression Inventory). Structured interviews provide a useful framework to identify openly an area of concern that can be discussed to some extent.

By identifying a problem the client expresses a personal desire to resolve and probably can resolve with some help, the intervener then is in a position to validate feelings and encourage exploration of cause and correction. For example,

“You feel like your teacher doesn't listen and treats you unfairly. I'll bet if we thought a bit about it, we could come up with some ways to make things better for you. Tell me what you've tried or would like to try, and then we'll figure out what to do.”

Once a mutual objective is established, the focus shifts to strategies for maintaining the client's motivation in working toward a solution. This, of course, involves ensuring that the client experiences a sense of satisfaction related to working with the therapist. From a motivational perspective, such satisfaction results from the type of (a) options and choices that enhance feelings of self-determination (e.g., perceived control) and (b) support, guidance, skill development, and feedback that enhance feelings of competence (e.g., self-efficacy).

Several problems may have to be worked through before a young client will disclose something perceived as risky. Hopefully, when the risk is taken, the matter is one that can be kept private. Whenever a matter is raised that must be shared, we suggest use of strategies that empower clients to take the lead in sharing the information with others.

Empowering Clients to Share Information

Empowerment of clients can be viewed as a defining characteristic and a primary aim of a helping relationship. That is, a fundamental concern of an intervener in offering a helping relationship is to act in the *best interests of the client, as defined by the client*, through an informed agreement about ongoing client participation in decision making about means and ends. The ultimate intent is to empower clients so they can independently pursue their best interests. To accomplish this, intervention focuses on enhancing a client's motivation and skills for autonomous functioning.

In contrast, socialization interventions give primary consideration to the *society's best interests*. Individual consent and decision making are not necessarily sought, and empowerment of the individual is pursued only if it is consonant with the socialization agenda. Fortunately, individual and societal interests often are in harmony. However, instances where confidentiality is limited by law are indicative of circumstances where individual and societal interests conflict and where society's interests predominate.

All of this has direct implications for the problem of divulging information when the intervener views this as in the client's best interests. In a helping process, the first responsibility of the intervener is to determine whether the client agrees that information should be shared. If the client doesn't agree, the intervener must be prepared to help the client explore (in a developmentally appropriate way) the costs and benefits involved. This may take some time, especially since the point is not to convince or seduce but to facilitate comprehension (e.g., understanding of the positive impact sharing can have on relations with significant others). In the end, the individual still may not agree, and the ethics of the situation may dictate that the intervener break confidentiality without consent.

If the client sees it in his or her interest to have others informed of certain matters, then discussion shifts to how this will be accomplished. Again, in keeping with a commitment to empowering the client, the client should be in control of what information is shared, and, if feasible, should be the one who does the sharing.

Ideally, helping and socialization come together as the counselor helps a client understand the value of relating positively to significant others (e.g., parents, teachers) with respect to sharing feelings, expressing needs, and working toward agreements.

Minimizing Negative Consequences of Disclosure

Whatever the benefits, divulging confidences can have costs (e.g., for the client and for others). Ethically and practically, the intervener must take steps to minimize these costs. For example, part of the problem may be reduced if, in explaining to the client the need for relating what has been learned, the client agrees that the case falls within the previously discussed limits on confidentiality, such as harm to self or others. The costs to the individual also may be reduced significantly in instances where it is feasible to share information without revealing the source's identity.

In general, when legal or ethical considerations compel an intervener to divulge confidences, three steps must be taken to minimize repercussions. Essentially, the steps involve (a) an explanation to the client of the reason for disclosure, (b) an exploration of the likely repercussions in and outside of the counseling situation, and (c) a discussion of how to proceed so that negative consequences are minimized and potential benefits maximized.

For example, in explaining reasons, one might begin with

“What you have shared today is very important. I know you’re not ready to talk about this with your parents, but it is the kind of thing that I told you at the beginning that I am required to tell them.”

One might explore repercussions for the helping relationship by stating

“I know that if I do so you will be upset with me and it will be hard for you to trust me anymore. I feel caught in this situation. I’d like us to be able to work something out to make this all come out as good as we can make it”.

With respect to how to proceed, often it is feasible simply to encourage the client to take actions in keeping with his/her best interests or give consent to allow the counselor to do so.

“This may work best for you if you tell them -- rather than me. Or if you don’t feel ready to handle this, we both could sit down with your parents while I tell them”.

Concluding Comments

Responsible professionals want to avoid both surrendering the confidentiality surrounding counseling relationships and overreacting to necessary limitations on confidences. In trying to combat encroachments on privileged communication, counselors recognize that the assurance of confidentiality and legal privilege are meant to protect a client's privacy and help establish an atmosphere of safety and trust. At the same time, it is important to remember that such assurances are not meant to encourage young clients to avoid sharing important information with significant others. Such sharing often is essential to the client's personal growth. Indeed, it is by learning how to communicate with others about private and personal matters that clients can increase their sense of competence, personal control, and interpersonal relatedness, as well as their motivation and ability to solve problems.